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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**F I N A L M I N U T E S**

MEETING OF:

**STATE BOARD OF OPTOMETRY  
VIA VIDEOCONFERENCE**

TIME: 10:54 A.M.

Thursday, December 2, 2021

State Board of Optometry  
December 2, 2021

BOARD MEMBERS:

Luanne K. Chubb, O.D., F.A.A.O., Chairperson  
K. Kalonji Johnson, Commissioner, Bureau of  
Professional and Occupational Affairs  
John A. Godfrey, O.D., Vice Chair  
Kimberly F. Boyer, O.D., Secretary  
Tyler Ritchie, Deputy Attorney General, Consumer  
Protection Member  
Perry C. Umlauf, O.D.

BUREAU PERSONNEL:

Ariel E. O'Malley, Esquire, Board Counsel  
David N. Smith, Esquire, Board Prosecution Liaison  
Paul J. Jarabeck, Esquire, Board Prosecutor  
Gregory Liero, Esquire, Board Prosecutor  
Sarah McNeill, Board Administrator  
Marc Farrell, Senior Deputy Policy Director,  
Department of State  
Shannon Boop, Fiscal Management Specialist 1, Bureau  
of Finance and Operations, Department of State  
Amanda Richards, Acting Fiscal Chief, Bureau of  
Finance and Operations, Department of State

ALSO PRESENT:

Ted Mowatt, CAE, Vice President, Wanner Associates, on  
behalf of Pennsylvania Optometric Association  
Ilene Sauertieg, Director of Education & Conferences,  
Pennsylvania Optometric Association  
Jen Smeltz, Republican Executive Director, Senate  
Consumer Protection & Professional Licensure  
Committee  
Nicole Sidle, Majority Committee Executive Director,  
House Professional Licensure Committee

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2 State Board of Optometry

3 December 2, 2021

4 \*\*\*

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
6 9:00 a.m. the Board entered into Executive Session  
7 with Ariel E. O'Malley, Esquire, Board Counsel, for  
8 the purpose of conducting quasi-judicial deliberations  
9 and to receive the advice of Board Counsel. The Board  
10 returned to open session at 10:54 a.m.]

11 \*\*\*

12 The regularly scheduled meeting of the State  
13 Board of Optometry was held on Thursday, December 2,  
14 2021. Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
15 called the meeting to order at 10:54 a.m.

16 \*\*\*

17 [Ariel O'Malley, Esquire, Board Counsel, reminded  
18 everyone that the meeting was being recorded for the  
19 purpose of preparing minutes of the meeting, and those  
20 who continued to participate were giving their consent  
21 to be recorded.]

22 \*\*\*

23 Roll Call

24 [Chairperson Chubb requested Ms. McNeill take a roll  
25 call of Board members.]

1 \*\*\*

2 Meeting Instructions

3 [Sarah McNeill, Board Administrator, provided  
4 instructions to be followed during the virtual  
5 meeting.]

6 \*\*\*

7 Introduction of Audience

8 [Chairperson Chubb requested the introduction of  
9 audience members.]

10 \*\*\*

11 Approval of Minutes

12 CHAIRPERSON CHUBB:

13 I'd like to make a motion for approval  
14 of the minutes from the Board meeting on  
15 August 26, 2021.

16 DR. UMLAUF:

17 I move to approve the minutes of the  
18 last Board meeting.

19 CHAIRPERSON CHUBB:

20 Is there a second?

21 DR. GODFREY:

22 Second.

23 CHAIRPERSON CHUBB:

24 Any discussion? Are there any additions  
25 or modifications? Hearing none.

1 All those in favor, say aye.  
2 Opposed? Hearing none, so moved.

3 [The motion carried unanimously.]

4 \*\*\*

5 Report of Board Prosecutor

6 [David N. Smith, Esquire, Board Prosecution Liaison,  
7 had no formal report to offer from the prosecutorial  
8 division.]

9 \*\*\*

10 Report of Commissioner

11 [K. Kalonji Johnson, Commissioner, Bureau of  
12 Professional and Occupational Affairs, reminded  
13 everyone that the virtual platform will continue  
14 through March 2022. He mentioned working internally  
15 on a hybrid or streaming platform in conjunction with  
16 in-person meetings for April 1, 2022.

17 Commissioner Johnson encouraged everyone to  
18 provide notice of travel for regional or national  
19 conferences as soon as possible to Ms. McNeill or Ms.  
20 O'Malley to be properly Sunshined on the agenda.

21 Commissioner Johnson informed the Board of a new  
22 process for travel requests through the Commonwealth  
23 Out-of-State Travel Application (COSTA) portal. He  
24 mentioned everyone would need their commonwealth user  
25 name and password to start the administrative process

1 for approval.

2 Commissioner Johnson wished everyone a safe and  
3 peaceful holiday season.]

4 \*\*\*

5 CHAIRPERSON CHUBB:

6 I'll make a motion that we adjust the  
7 agenda to allow the Bureau of Finance  
8 and Operations to conduct their meeting  
9 and presentation at 11:00.

10 DR. GODFREY:

11 Second.

12 CHAIRPERSON CHUBB:

13 Thank you, Dr. John Godfrey.

14 \*\*\*

15 Appointment - Bureau of Finance and Operations

16 Annual Budget Presentation

17 [Amanda Richards, Acting Fiscal Chief, informed the  
18 Board that the Bureau of Finance and Operations (BFO)  
19 looks at the licensee population on a biennial basis  
20 and that the Board renews in November of even years.  
21 She noted an increase of 24 licensees in FY16-17 to  
22 FY18-19 and an increase of 23 licensees in FY18-19 to  
23 FY20-21 with a current license count for FY21-22 of  
24 2,835. She reported an increase of 1 licensee this  
25 morning, giving a total licensee count of 2,836.

1 Ms. Richards noted the total biennial revenue with  
2 99% of the revenue coming from renewals and  
3 applications.

4 Ms. Richards addressed the two main categories of  
5 Board expenses, administrative and legal costs. She  
6 stated the expenses are incurred through direct  
7 charges, timesheet charges, and license population.  
8 She referred to expenses for FY19-20 and FY20-21, the  
9 budget for FY21-22, and the actual expenses for FY21-  
10 22 as of November 19, 2021. She reported on a recent  
11 increase in expenses.

12 Chairperson Chubb asked Ms. Richards whether she  
13 could provide a specific breakdown of expenses showing  
14 the reason for fluctuations.

15 Ms. Richards offered to provide a breakdown of  
16 expenses for the Board within the next day or two.

17 Ms. Richards reviewed revenues and expenses,  
18 noting the projected balance at the end of the fiscal  
19 year. She noted the balance was starting to trend  
20 down over the next three fiscal years due to expenses  
21 exceeding revenue. She informed the Board of a  
22 possible fee increase package in the near future.

23 Chairperson Chubb commented that the Board was  
24 told approximately three years ago that expenses would  
25 be sufficient potentially through FY26-27. She

1 requested more information regarding the fee increase  
2 package process.

3 Ms. Richards explained that BFO works with the  
4 revenue office to create a fee package that includes  
5 the cost of processing applications and renewals. She  
6 noted any increase would be incremental. She stated  
7 BFO would return to the Board within the next couple  
8 of months to provide a fee increase package  
9 presentation. She mentioned that the last fee  
10 increase for the Board was in 1988. She noted that  
11 the earliest a fee increase would take effect would be  
12 in the 2024 renewal period.

13 Ms. Richards noted Board member expenses in FY19-  
14 20 and FY20-21 with the current budget for FY21-22.  
15 She reported expenses as of November 19, 2021, for  
16 FY20-21 with no recent change. She stated the \$11,000  
17 budget was adequate for FY21-22 and has been carried  
18 over to FY22-23.

19 Ms. Richards reminded that Board that anything not  
20 spent is returned to the restricted account for the  
21 Board's use at a later time.

22 Chairperson Chubb thanked the Bureau of Finance  
23 and Operation for their presentation.

24 Ms. Richards informed the Board that she would be  
25 sending Ms. McNeill the breakdown of expenses within

1 the next few days and provide the fee increase package  
2 within the next couple of months.]

3 \*\*\*

4 Report of Board Counsel - Legislative Report  
5 [Ariel E. O'Malley, Esquire, Board Counsel, addressed  
6 the legislative report, noting House Bill 681  
7 regarding covenants was removed from the table in  
8 November 2021.

9 Ms. O'Malley noted Senate Bill 705 regarding the  
10 practice of telemedicine passed in the Senate on  
11 October 26 and has been with the House Insurance  
12 Committee since October 27, 2021.

13 Ms. O'Malley addressed Senate Bill 869, which  
14 would update how business is conducted within their  
15 department and would allow for future virtual Board  
16 meetings and virtual participation in lieu of physical  
17 presence. She provided a copy for the Board's review.

18 Ms. O'Malley wanted to publically acknowledge and  
19 thank Joe Ricci, who passed due to COVID, for being a  
20 wonderful source of information and a joy to work  
21 with.

22 Chairperson Chubb also commented on behalf of the  
23 Board that Mr. Ricci had quite a bit of extensive  
24 knowledge and humor and will be missed.]

25 \*\*\*

1 Report of Board Chair

2 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
3 reminded members that the Association of Regulatory  
4 Boards of Optometry (ARBO) had approved online  
5 continuing education (CE) as live through the  
6 pandemic. She informed the Board that the designation  
7 will end effective December 30, 2021, and all virtual  
8 sessions, whether they be synchronous or asynchronous,  
9 will now go back to the status of distance learning.

10 Chairperson Chubb noted that their designation of  
11 distance learning previously required a posttest, but  
12 the posttest will be waived for six months as they  
13 transition back to in-person sessions. She encouraged  
14 everyone to reach out to the Board or ARBO for any  
15 further questions.]

16 \*\*\*

17 Report of Regulatory Counsel

18 [Ariel E. O'Malley, Esquire, Board Counsel, addressed  
19 Act 41 regarding licensure by endorsement. She noted  
20 receiving comments from the Independent Regulatory  
21 Review Commission (IRRC) and House Professional  
22 Licensure Committee but no public comments. She  
23 provided the comments for the Board's review and  
24 discussion at the February meeting.

25 Ms. O'Malley informed that Board that she will be

1 preparing responses as well as providing the Board  
2 with options for the annex to address the issues that  
3 were brought up.

4 Chairperson Chubb asked Ms. O'Malley how the  
5 Board should be looking at the comments and some of  
6 the issues as far as information or changes with  
7 respect to the next meeting.

8 Ms. O'Malley explained that some of the comments  
9 sought clarity, while others asked the Board to  
10 consider alterations to the annex.]

11 \*\*\*

12 Report of Board Administrator - No Report

13 \*\*\*

14 Report of Board Counsel - Hearing Examiner Proposals

15 DR. BOYER:

16 I move to have counsel draft an  
17 Adjudication in accordance with our  
18 discussions in Executive Session  
19 regarding Man Tri Vu, O.D., Case No. 18-  
20 52-010885.

21 CHAIRPERSON CHUBB:

22 Is there a second?

23 DR. UMLAUF:

24 I second it.

25 CHAIRPERSON CHUBB:

1 Discussion? Hearing none. All those in  
2 favor, say aye. Opposed? Based on the  
3 motion, a decision has passed in favor  
4 with four ayes, one nay. So moved.

5 [The motion carried. Mr. Ritchie opposed the motion.]

6 \*\*\*

7 New Business

8 DR. BOYER:

9 Regarding Dr. Neistadt, I move that  
10 counsel prepares an order to grant a CE  
11 Waiver providing a six-month extension  
12 and requiring 10 hours of CE in the  
13 areas of glaucoma, therapeutics, Act 31,  
14 and opioid CE if the licensee has  
15 achieved it.

16 CHAIRPERSON CHUBB:

17 Is there a second?

18 DR. GODFREY:

19 I'll second.

20 CHAIRPERSON CHUBB:

21 Any further discussion? Hearing none.  
22 All those in favor, signify by saying  
23 aye. Opposed? Hearing none. So moved.

24 [The motion carried unanimously.]

25 \*\*\*



1 Probable Cause Screening Committee, and she and Dr.  
2 Godfrey will be on the Regulations Committee.

3 Paul J. Jarabeck, Esquire, Senior Board  
4 Prosecutor, commented that two members on the Probable  
5 Cause Screening Committee would not be helpful unless  
6 there was one member and an alternate. He mentioned  
7 that other boards with a similar size only have one  
8 person membership.

9 Ms. O'Malley noted that most boards tend to lean  
10 toward having a professional member on the Probable  
11 Cause Screening Committee because the issues can  
12 involve specific issues within the profession,  
13 especially when it comes to immediate temporary  
14 suspensions.

15 Chairperson Chubb, after further discussion  
16 regarding the Probable Cause Screening Committee,  
17 noted that Dr. Godfrey and Mr. Ritchie would be on the  
18 Act 41 Committee, and she would remain on the Probable  
19 Cause Screening Committee.

20 Chairperson Chubb noted Dr. Boyer and Dr. Godfrey  
21 will also remain on the Pharmaceutical Committee.

22 Dr. Boyer noted Dr. Becker and Dr. Wilcox are  
23 trying to get reappointed but was not aware of any  
24 other individuals right now.

25 Chairperson Chubb mentioned reaching out to

1 different state associations and local society asking  
2 for members to consider serving. She stated that  
3 committees could be readdressed at the next meeting if  
4 there are any new appointees.

5 Dr. Umlauf informed the Board that Dr. Charles  
6 Stuckey, the executive director of the Pennsylvania  
7 Optometric Association (POA), is looking into  
8 appointments as well.

9 Dr. Boyer noted receiving CE approval requests  
10 from two Pennsylvania doctors of optometry (ODs) who  
11 were presenting a lecture at SECO in Atlanta, Georgia.  
12 She mentioned having the Council on Optometric  
13 Practitioner Education (COPE) approval would apply to  
14 all states and not being sure of why they are doing  
15 this because Board approval would only apply to the  
16 lecture given that day in Atlanta for Pennsylvania  
17 licensees.

18 Ms. McNeill addressed COPE fees, noting \$60 for  
19 course review for the first hour of instruction and  
20 \$50 for each additional hour but was unaware of the  
21 Board's course review fees.

22 Chairperson Chubb commented that it made no sense  
23 to have approval for only Pennsylvania members when it  
24 is essentially an international meeting and being held  
25 live in New Orleans. She noted reaching out to

1 applicants as to why they applied for approval through  
2 the Pennsylvania Board of Optometry instead of COPE.

Commented [MS1]: I'm not sure what this sentence is indicating or how to correct it.

3 She mentioned the course certainly merited approval  
4 but would only pertain to Pennsylvania attendees.

5 Dr. Boyer asked whether the Board wished to have  
6 an official stance going forward, where the Board  
7 would ask the applicant seeking approval of the CE to  
8 get COPE approval instead for national conferences.

9 Chairperson Chubb could not see why the Board  
10 would approve a course for a national meeting when  
11 they have preapproved providers in their regulation  
12 like the American Academy of Optometry, American  
13 Optometric Association, and state association. She  
14 mentioned not seeing any benefit in approving a course  
15 to be given at a national conference.

16 Chairperson Chubb mentioned that the SECO website  
17 does have some state-approved courses and COPE-  
18 approved courses, noting that it should not be a Board  
19 time commitment to grant approval for an organization  
20 that is not part of their regulations.

21 Ms. McNeill asked whether there was anything in  
22 the regulations that gives the Board the authority to  
23 deny an application if someone does apply.

24 Ms. O'Malley noted there was nothing in the  
25 regulations that prohibits someone from applying as

1 they have and the regulations did not prepare for the  
2 situation.

3 Chairperson Chubb commented that there are a  
4 significant amount of states based on ARBO's  
5 presentation that use the Optometric Education (OE)  
6 TRACKER and do require only COPE-approved courses  
7 because COPE has reached the designation as  
8 substantially equivalent to Accreditation Council for  
9 Continuing Medical Education (ACCME) used by the  
10 medical community.]

11 \*\*\*

12 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson, noted  
13 Board meeting dates for 2022 are February 3, May 19,  
14 August 25, and December 1.]

15 \*\*\*

16 New Business - Annual Election of Officers

17 CHAIRPERSON CHUBB:

18 I make a motion that we address the  
19 annual election of officers.

20 Do I have a second?

21 DR. GODFREY:

22 Second.

23 CHAIRPERSON CHUBB:

24 Do I have a motion for a nomination for  
25 chair?

1 DR. GODFREY:

2 I nominate Dr. Luanne Chubb to be the  
3 chair of the Pennsylvania State Board of  
4 Optometry.

5 DR. UMLAUF:

6 I second it.

7 CHAIRPERSON CHUBB:

8 Any discussion? All those in favor?  
9 Opposed? Hearing none.

10 [The motion carried unanimously.]

11 \*\*\*

12 CHAIRPERSON CHUBB:

13 Is there a nomination for appointment  
14 for vice chair?

15 DR. UMLAUF:

16 I move that Dr. John Godfrey be vice  
17 chair of the Pennsylvania State Board of  
18 Optometry.

19 CHAIRPERSON CHUBB:

20 Second?

21 DR. BOYER:

22 Second.

23 CHAIRPERSON CHUBB:

24 Any discussion? All those in favor,  
25 signify by saying aye. Opposed?

1                   Hearing none.

2 [The motion carried unanimously.]

3                                   \*\*\*

4 CHAIRPERSON CHUBB:

5                   For the positon of secretary of the  
6                   state Board, is there a motion for  
7                   secretary?

8 DR. GODFREY:

9                   I move that Dr. Kim Boyer is elected  
10                  secretary of the Pennsylvania State  
11                  Board of Optometry.

12 DR. UMLAUF:

13                               Second.

14 CHAIRPERSON CHUBB:

15                   All those in favor? Opposed? Hearing  
16                   none.

17 [The motion carried unanimously.]

18                                   \*\*\*

19 Public Comment Period

20 [Paul J. Jarabeck, Esquire, Senior Board Prosecutor,  
21 announced David Smith will be leaving their office  
22 this month and replaced by Greg Liero as the new Board  
23 prosecution liaison.

24           Mr. Jarabeck thanked Mr. Smith for his service.

25           Chairperson Chubb also thanked Mr. Smith and

1 wished him the best.]

2 \*\*\*

3 Adjournment

4 CHAIRPERSON CHUBB:

5 I would like to make a motion to adjourn  
6 this session of the State Board of  
7 Optometry.

8 DR. UMLAUF:

9 I move to adjourn.

10 CHAIRPERSON CHUBB:

11 Second?

12 DR. BOYER:

13 Second.

14 CHAIRPERSON CHUBB:

15 We will see each other at our next  
16 meeting scheduled on February 3, at  
17 which time we would have a regulatory  
18 Board meeting afterwards.

19 \*\*\*

20 [There being no further business, the State Board of  
21 Optometry Meeting adjourned at 11:50 a.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Optometry meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Optometry meeting.



Derek Richmond,  
Minute Clerk  
Sargent's Court Reporting  
Service, Inc.

STATE BOARD OF OPTOMETRY  
REFERENCE INDEX

December 2, 2021

TIME	AGENDA
9:00	Executive Session
10:30	Return to Open Session
10:54	Official Call to Order
10:58	Roll Call/Introduction of Audience
10:59	Approval of Minutes
11:01	Report of Commissioner
11:03	Appointment - Bureau of Finance and Operations Annual Budget Presentation
11:15	Report of Board Counsel - Legislative Report
11:17	Report of Board Chair
11:18	Report of Regulatory Counsel
11:20	Report of Board Counsel - Hearing Examiner Proposals
11:20	New Business
11:48	Public Comment Period
11:50	Adjournment

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